

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

JOSEPH K. PONTHER,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-11-954-D
)	
CAROLYN W. COLVIN,)	
Acting Commissioner of Social)	
Security Administration,)	
)	
Defendant.)	

ORDER

Before the Court is the Motion for Attorney Fees Under 42 U.S.C. § 406(b) [Doc. No. 28], as corrected [Doc. No. 29]. The Acting Commissioner has filed a timely response to the Motion, but takes no position concerning the request by Plaintiff's attorneys for the Court to approve a fee award in the amount of \$12,180.65. Instead, the Acting Commissioner urges the Court to undertake an independent review and to determine the reasonableness of the fee request under controlling law.

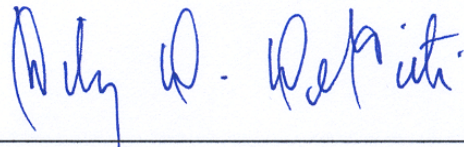
Upon consideration of the Motion in light of *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002), and *Wrenn v. Astrue*, 525 F.3d 931 (10th Cir. 2008), the Court finds that Plaintiff's attorneys may recover a reasonable fee for the representation of Plaintiff in this case up to the statutory limit of 25% of past-due benefits, provided the attorneys refund the amount of \$7,972.20 previously awarded under the Equal Access to Justice Act (EAJA). *See* Order Awarding Attorney Fees [Doc. No. 25]. The supporting documents with the Motion, as well as the case record, reveal a total of 45.6 hours of legal work devoted to this case (40.7 attorney hours and 4.9 paralegal or intern hours), which resulted in a favorable judicial decision. *See* Judgment and Order of Remand [Doc. No. 21]. After remand, Plaintiff was determined to be entitled to benefits and was awarded a past-due amount of

\$48,722.60. The Motion has been timely filed with the time period previously determined by the Court to be reasonable. *See* Order of Dec. 2, 2013 [Doc. No. 27].

Under the circumstances presented, the Court finds that the requested amount of \$12,180.65 represents a reasonable fee for the work done in this case in view of the nature of the representation and the results achieved, and that this amount does not exceed 25% of Plaintiff's award of past-due benefits obtained by reason of the Judgment entered August 16, 2012. The Court therefore finds that the Motion of Plaintiff's attorneys should be granted.

IT IS THEREFORE ORDERED that the corrected Motion for Attorney Fees Under 42 U.S.C. § 406(b) [Doc. Nos. 28 & 29] is GRANTED. The Court approves an award of attorney fees under 42 U.S.C. § 406(b) to the signatory to Plaintiff's fee agreement, Steve A. Troutman of Troutman & Troutman, P.C., in the amount of \$12,180.65. Plaintiff's attorneys shall promptly refund to Plaintiff Joseph K. Ponthier the amount of EAJA fees previously awarded of \$7,972.20.

IT IS SO ORDERED on this 21st day of January, 2014.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE